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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,890	04/11/2005	Victor Villagrasa	1200.729	4475
<div>7590 01/07/2008</div> <div>Liniak Berenato Longacre & White Suite 240 6550 Rock Spring Drive Bethesda, MD 20817</div> <div>EXAMINER ESTREMSKY, GARY WAYNE</div> <div>ART UNIT PAPER NUMBER</div> <div>3673</div> <div>MAIL DATE DELIVERY MODE</div> <div>01/07/2008 PAPER</div>				

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/530,890

Applicant(s)

VILLAGRASA ET AL.

Examiner

Gary Estremsky

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 12, 15-20 and 25-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13, 14, 21 and 23 is/are rejected.
- 7) ☒ Claim(s) 22 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date hereto.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of the Election of Species requirement mailed on 6/15/07 in the reply filed on 12/17/07 is acknowledged. The traversal is on the ground(s) that Figures 1 and 2 illustrate the same embodiment. This is found persuasive and the invention(s) shown in Fig 1 and 2 are rejoined whereby Applicant's election of the embodiment of Fig 1 is taken to include Fig 2 as well. The election of species requirement has been considered in view of the arguments and inasmuch as the elected and non-elected embodiments otherwise include exclusive special technical features, the requirement is still deemed proper and is made FINAL.
2. The election of the embodiment of Fig 1 without traverse in response filed 5/8/07 as reply to the previous Election of Species requirement mailed on 1/10/07 is noted. In accordance with that reply, claims 1-17 and 21-29 were elected.
3. Applicant's election indicates that claims 18-20 are withdrawn.
4. However, as regards claim 12, as best understood, the "means for transmitting" of the elected embodiment is disclosed to be part 9 which is 'parallel to' the gripping part as described at lines 36-39 of page 9 of the written description. Accordingly claim 12 is withdrawn as being directed to a non-elected embodiment of the invention.
5. Similarly, claim 15 is apparently directed to a non-elected embodiment shown in Fig 4. Accordingly, claims 15-17 are also withdrawn.

6. Similarly claim 25 is directed to non-elected embodiment of Fig 3 whereby claims 25-28 are withdrawn.

7. Accordingly, claims 1-11, 13, 14, 21-24, and 29 appear to read on the elected embodiment of Fig 1 and Fig 2 and are considered hereinbelow.

Drawings

8. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “elastic return means”, and the “end of the lever which receives the movement of the arm located at the bottom has an essentially cylindrical profile”, and “sliding elements at each guide element (that),..., ensure good sealing”, and motor vehicle strip door with rear frame of window” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

9. Claims 3, 21, 23, and 24 are objected to because of the following informalities:
10. Preamble to claim 3 should be amended as –The handle of claim 1 mounted on the motor vehicle door's window frame and characterized in that it comprises,...-- to be consistent in scope with claim limitation which requires "comprises a panel or mask located in the same plane as the external surface of the rear frame" thereby implicitly requiring the previously-recited window frame of vehicle door.
11. Claims 21, 23, and 24 - recitation of "the panel or mask" lacks clear antecedent basis in the claim.
12. Appropriate correction is required.

Claim Rejections - 35 USC § 112

13. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

14. Claims 4-11 and 13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

15. While written description describes limitation as being a capability of the disclosed structure, it's not clear from the illustrated structure and description, how. While it seems reasonable that the assembly of 10,11 with 6, 8 could possibly translate, its not clear if there is any structure to prevent 11 from simply being pulled out from 6 if the handle is pulled. While it seems reasonable that 11 could rotate to some extent within 6, it's not clear what would retain those parts together as already noted. It seems that parts including 9,10,14 are intended to pivot on support 4 but no structure for their pivotal mounting is shown. In any case, it's not clear how the handle including 6 translates relative to 11 without simply falling apart whereby it's not clear that the original disclosure provides sufficient enablement for one of ordinary skill in the art to make and use the claimed invention.

16. Additionally as regards claims 5,7, it's not clear how vertical translation of the handle about an axis parallel to the axis of rotation of 9 affects the claimed angle.

17. Additionally as regards claim 6, although the showing of part 6 within a channel ? formed in 4, a portion of which is indicated at '7' would apparently provide support for vertical sliding movement of 6 relative to 11, it's not clear how the handle could rotate with a square portion (6) housed in a similar-shaped channel.

18. As regards claim 13, due to structural assembly/operation issues already noted with respect to retention and movement of the handle on the assembly, one of ordinary skill in the art would not be enabled to make and use sealing structure as claimed; especially where as best understood, none has been illustrated.

19. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

20. Claims 5, 8, 13, and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As regards claim 5, assuming that parts at 6 and 11 are retained together by some means, it remains unclear what is meant by "such that said gripping part moves according to a small angle with respect to an axis perpendicular to the surface of the door". It's not clear how vertical translation about an axis parallel to the axis of rotation of 9 affects the claimed angle whatsoever.

As regards claims 8 and 13, it's not clear which element is referred to by recitation of "it".

As regards claim 13, while limitation of "good sealing" apparently includes some range of sealing ability, it's not clear what the extents of the range might include whereby scope of the claim is indefinite.

As regards claim 29, it's not clear that any additional structure or scope of invention is defined by claim 29 whereby it appears to be no more than double inclusion of the elements of claim 1.

Claim Rejections - 35 USC § 102

21. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

22. Claims 1, 14, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 2,570,160 to Schoch.

23. Schoch '160 teaches Applicant's claim limitations including : a "handle" – 14, a "groove" – space between 14,15, "means for transmitting the movement" – including 22, 24, "mainly in the lower zone thereof" – the upper portion of handle (as shown in Fig 1 for example) of reference anticipates limitation inasmuch as claim's directions are not defined with respect to other claimed elements in such a way as to require a preferred coordinate system or clearly define some additional structure not taught by the well known prior art.

24. As regards claim 14, widened portion (as shown in fig 2) of the grippable portion anticipates broad limitation for "extension".

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claims 2, 4-8, 13, 21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 2,570,160 to Schoch.

27. As regards claim 2, the reference discloses "handle support" – including 11,15 but does not disclose a motor vehicle door having a window frame, noting inclusion of "the frame of the door" (of claim 1). Examiner takes Official Notice that such doors are long known in the art whereby it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the latch of Schoch '160 on such motor vehicle door in order to provide a handle that is maintained in an inaccessible position when the device is locked.

28. As regards claim 3, the grippable portion of the reference is intended to be fully visible whereby application to a vehicle door in such a way to conceal it is not immediately obvious.

As regards claim 4, Schoch '160 teaches the gripping part to have ends structure that fits within 15 and reads on "guides" inasmuch as the handle functions as recited at least partially due to configuration of its elements. The law of anticipation requires that a distinction be made between the invention described or taught and the invention claimed. It does not require that the reference "teach" what the subject patent teaches.

Assuming that a reference is properly "prior art," it is only necessary that the claims under consideration "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 789. Broad limitation of "guides" does not clearly define any particular structure that can be relied on to patentably distinguish from the well known structure of the prior art.

As regards claim 6, each end of the grippable portion slides outwards along the "rail" defined by vertical edge of opening at 15 as the handle translates outwardly.

As regards claim 8, either upstanding vertical edge of opening at 15 anticipates broad limitation for "protective wing".

As regards claim 13, sliding edges of end portions of opening at 15 anticipate limitation and as best understood, provide "good sealing".

As regards claim 21, part 8 of the reference anticipates alternatively-recited "panel" limitation where reference otherwise discloses fastening means equivalent for function of fastening.

Allowable Subject Matter

29. Claim 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

30. Claims 22 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

31. Due to the nature of rejection made under 35 USC 112, first paragraph, claims 9-11 cannot be indicated as containing allowable subject matter.

Conclusion

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

33. U.S. Pat. No. 2,549,312 to Janonis.

34. U.S. Pat. No. 4,580,821 to Genord.

35. U.S. Pat. No. 3,596,955 to Colell.

36. U.S. Pat. No. 7,062,945 to Saitoh.

37. U.S. Pat. No. 6,234,546 to Asakura.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on T,W,Th,F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on 571 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Gary Estremsky
Primary Examiner
Art Unit 3673